

REMARKS

This responds to the Office Action mailed on December 26, 2007.

Claims 6-8, 14, 20, 21, 23, and 24, are amended, claim 10 is cancelled, and no claims are added; as a result, claims 1-3, 5-9, 11-18, and 20-27 are now pending in this application.

Claim Objections

Claims 14 and 24 were objected to for minor informalities that have been corrected in this amendment.

§112 Rejection of the Claims

Claims 5-6 and 20-21 were rejected under 35 U.S.C. § 112. Claims 5-6 and 20-21 were amended to address the rejection. It is submitted that the rejection has been overcome and it is respectfully requested that the rejection be withdrawn.

§103 Rejection of the Claims

Claims 1-2, 5-7, 14-17, 20-22 and 24-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hills in view of Gatto (U.S. 6,149,055).

Hills is directed at a check writing point of sale system. (Hills, Title.) In order to show the feature of "receiving consumer information associated with a consumer" recited in claim 1, the Office action recites the following: "A point of sale system designed to read information from a consumer's check, credit card, or manual input with a subsequent debiting of a consumer's account and crediting merchant's account for the goods or services provided." (Hills, Abstract.)

The Office action cites exactly the same passage ("[a] point of sale system designed to read information from a consumer's check, credit card, or manual input with a subsequent debiting of a consumer's account and crediting merchant's account for the goods or services provided") to show the feature of "identifying at least one approved payment option" recited in

claim 1. As can be clearly seen, the cited passage does not mention the operation of "identifying" and also does not mention a "payment option" or an "approved payment option." On the contrary, Hills explains, however, that the electronic capturing of consumer information at a point of sale terminal occurs *prior to any approval* for the crediting of the System subscriber's designated depository account. (Hills, 5: 28-34 and 35-43.) Therefore, *even if* information read from a consumer's check, credit card, or manual input in Hills reads on the consumer information from "receiving consumer information associated with a consumer" recited in claim 1, the information being read from a consumer's check, credit card, or manual input in Hills does not amount to "identifying at least one approved payment option," recited in claim 1.

In order to show that the at least one approved payment option is identified "from a plurality of payment options" and that the identifying of at least one approved payment option is performed "utilizing the consumer information," the Office action cites a fully automated system capable of handling different payment methods and refers to Hills at 3: 30-32 and 46-52. It is submitted that there is no indication in Hills that its system capable of handling different payment methods can be configured to **identify, from a plurality of payment options, at least one approved payment option** instead of merely verifying the credit card or the bank account information provided by the consumer. Hills fails to disclose or suggest an operation where a payment option identified from a plurality of payment options is an approved payment option.

Thus, Hills fails to disclose or suggest "identifying at least one approved payment option from a plurality of payment options utilizing the consumer information," as recited in claim 1. This deficiency of Hills is not remedied by combining Hills with Gatto, directed at an electronic fund transfer system (Gatto, Abstract), that also fails to disclose or suggest this feature of claim 1.

Claim 14, as amended, recites "receiving **at least one approved payment option selected from a plurality of payment options** from the transaction processing facility, **the at least one approved payment option identified based on the consumer information.**" This operation is not disclosed by the combination of Gatto and Hills, as explained with reference to

claim 1. Thus, claim 14 and its dependent claim are patentable and should be allowed for at least the reasons articulated with reference to claim 1.

Claim 16 recites the operation to "identify at least one approved payment option from a plurality of payment options utilizing the consumer information." This operation is not disclosed by the combination of Gatto and Hills, as explained with reference to claim 1. Thus, claim 16 and its dependent claims are patentable and should be allowed for at least the reasons articulated with reference to claim 1.

Claim 24 recites the operation to "**receive at least one approved payment option selected from a plurality of payment options from the transaction processing facility based on the consumer information.**" This operation is not disclosed by the combination of Gatto and Hills, as explained with reference to claim 1. Thus, claim 24 and its dependent claim are patentable and should be allowed for at least the reasons articulated with reference to claim 1.

Claims 11 and 13 were rejected under 35 USC § 103(a) as being unpatentable over Hills in view of Wang (U.S. 2003/0009423). Claims 11 and 13 include the features of "an approved payment options generator module to ... select, from a plurality of payment options, at least one approved payment option, utilizing the consumer information" by virtue of their being dependent on claim 8. The features of "an approved payment options generator module to ... select, from a plurality of payment options, at least one approved payment option, utilizing the consumer information" are not disclosed by Hills for the reasons articulated with respect to claim 1. Wang discloses processes and systems for offering and granting digital rights that govern distribution and usage of content, services and resources. (Wang, Abstract.) Wang, whether considered separately or in combination with Hills also fails to disclose these features. Because the features of claims 11 and 13 are not disclosed in the combination of Wang and Hills, claims 11 and 13 are patentable in view of Wang and Hills combination and should be allowed.

Claims 3 and 18 were rejected under 35 USC § 103(a) as being unpatentable over Hills and Gatto as applied to claims 1 and 16 above, and further in view of Wang. Claims 3 and 18 include the features of identifying "at least one approved payment option from a plurality of payment options utilizing the consumer information" by virtue of their being dependent on

claims 1 and 16 respectively. These features are not disclosed by Hills and Gatto combination for the reasons articulated with respect to claim 1. Wang, whether considered separately or in combination with Hills and Gatto, also fails to disclose or suggest identifying "at least one approved payment option from a plurality of payment options utilizing the consumer information" included in claims 3 and 18. Because the features of claims 3 and 18 are not disclosed in the combination of Wang, Gatto, and Hills, claims 3 and 18 are patentable in view of Wang, Gatto, and Hills combination and should be allowed.

§102 Rejection of the Claims

Claims 8-10, 12, and 23 were rejected under 35 U.S.C. § 102(b) for anticipation by Hills (U.S. 6,164,528).

As discussed above, with reference to claim 1, Hills fails to disclose or suggest "identifying at least one approved payment option from a plurality of payment options utilizing the consumer information". Claim 8, as amended, recites "an approved payment options generator module to ... select, from a plurality of payment options, at least one approved payment option, utilizing the consumer information" that is also not disclosed in Hills for at least the reasons articulated with respect to claim 1. Thus, claim 8 and its dependent claims are patentable in view of Hills and should be allowed.

Claim 23, as amended, recites "means for selecting, from a plurality of payment options, at least one approved payment option, utilizing the consumer information" that is not disclosed in Hills for at least the reasons articulated with respect to claim 1. Thus, claim 23 is patentable in view of Hills and should be allowed for at least the reasons articulated with respect to claims 1 and 8.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney 408-278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
408-278-4052

Date March 26, 2008

By 

Elena B. Dreszer
Reg. No. 55,128

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: MS RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 26th, day of March 2008.

Dawn R. Shaw

Name



Signature